

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JOSEPH PERONACE,**

Plaintiff,

v.

**CITY OF PHILADELPHIA,**

Defendant.

**CIVIL ACTION**

**NO. 23-3943-KSM**

**ORDER**

**AND NOW**, this 12th day of December, 2023, upon consideration of Defendant's Motion to Dismiss (Doc. No. 10) and Plaintiff's opposition brief (Doc. No. 11), it is **ORDERED** that the motion is **GRANTED** as follows:

1. Count I of the Amended Complaint is **DISMISSED WITH PREJUDICE**.
2. Count II of the Amended Complaint is **DISMISSED WITHOUT PREJUDICE**.

Plaintiff may file a second amended complaint reasserting his § 1983 claim to the extent he can in good faith cure the deficiencies identified in the Court's accompanying Memorandum. Any second amended complaint shall be filed by **December 29, 2023** and *must* include a redline identifying changes between it and the Amended Complaint.

**IT IS SO ORDERED.**

*/s/Karen Spencer Marston*

**KAREN SPENCER MARSTON, J.**